



CITY OF WINTER GARDEN

CITY COMMISSION REGULAR MEETING MINUTES

May 8, 2008

A **REGULAR MEETING** of the Winter Garden City Commission was called to order by Mayor Rees at 6:33 p.m. at City Hall, 251 West Plant Street, Winter Garden, Florida. The invocation and Pledge of Allegiance were given.

Present: Mayor John Rees, Commissioners Harold L. Boulter, Bob Buchanan, and Colin Sharman

Absent: Commissioner H. Gerald Jowers

Also Present: City Manager Mike Bollhoefer, City Attorney A. Kurt Ardaman, City Clerk Kathy Golden, Assistant City Manager Marshall Robertson, Public Services Director Don Cochran, Fire Chief John Williamson, Police Lieutenant Bill Sullivan, Finance Director Brian Strobeck, Building Official Skip Lukert, Human Resources Director Frank Gilbert, Information Technology Director Bob Reilly, Recreation Director Jay Conn, Economic Development Director Dolores Key, Planning Director Ed Williams, Executive Assistant to the City Manager Andrea Vaughn, and West Orange Times reporter Michael Laval

1. **APPROVAL OF MINUTES**

Motion by Commissioner Buchanan to approve the regular meeting minutes of April 24, 2008 as submitted. Seconded by Commissioner Boulter and carried unanimously 4-0.

2. **PRESENTATION**

A. **Comprehensive Annual Financial Report for Fiscal Year ending September 30, 2007 as audited by Sines, Girvin, Blakeslee and Campbell**

Finance Director Strobeck gave brief highlights of the report and stated that the City has received an unqualified opinion for which staff is very proud. The City has also received the Certificate of Achievement for Excellence in Financial Reporting for the fourth consecutive year.

Mayor Rees congratulated the Finance Department for their efforts in achieving this award and asked the City Commission if there were any questions or comments. He suggested that everyone go through the report and speak directly to the auditor or the Finance Director for any clarifications.

3. **FIRST READING OF PROPOSED ORDINANCES**

A. **Ordinance 08-28:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 98, ARTICLE II, SECTION 98-32, CITY OF

WINTER GARDEN CODE OF ORDINANCES REVISING THE APPEAL PROCESS CONCERNING CITY COMMISSION DECISIONS ON APPEALS FROM THE PLANNING & ZONING BOARD AND ON QUASI-JUDICIAL MATTERS; PROVIDING FOR CODIFICATION, CONTROL, SEVERABILITY, AND AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 08-28 by title only. City Manager Bollhoefer stated that this is a change recommended by the City Attorney to bring the City into compliance with State law. City Attorney Ardaman confirmed that the code's language is outdated and needs revising. The existing language is limited to very specific items. There are a number of other types of proceedings that could come before the City Commission that would be subject to the same provision. The proposed change is to eliminate the listed items and lump them all under quasi-judicial matters. He explained it as a standard process that would make the City's process consistent with the law in Florida. **Motion by Commissioner Boulter to approve Ordinance 08-28 with the second reading and public hearing being scheduled for June 12, 2008. Seconded by Commissioner Sharman and carried unanimously 4-0.**

- B. **Ordinance 08-33:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING SECTIONS 110-154, 110-155, 110-156, 110-157 AND 110-159 OF CHAPTER 110 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN CONCERNING SUBDIVISION INFRASTRUCTURE MAINTENANCE; PROVIDING FOR ADDITIONAL PROVISIONS IN DECLARATION OF COVENANTS FOR SUBDIVISIONS; PROVIDING FOR REPORTING FINDINGS OF COMMUNITY SUBDIVISION INFRASTRUCTURE REPORTS TO CITY; SIMPLIFYING CAPITAL RESERVE ACCOUNT REQUIREMENTS FOR HOMEOWNERS ASSOCIATIONS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONTROL IN EVENT OF CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 08-33 by title only. City Manager Bollhoefer stated that this ordinance primarily deals with homeowners' associations because the existing code does not give the City enough authority. One of the big issues is when the developer controls the homeowners' associations (HOA), the City wants to ensure that the residents will have sufficient funds to run their organization after it is turned over by the developer. The reason for proposing this ordinance is to make it work well and protect our residents.

City Attorney Ardaman advised that the existing section of our code is very long and cumbersome with multiple requirements for multiple accounts that each homeowner's association would have to set up. He guesses that many homeowner associations do not comply with our code requirements. He described that the City Commission sometimes receives requests from subdivision homeowner associations for assistance in maintaining their infrastructure because they do not have adequate funds to properly maintain their subdivision. Their request in actuality is to spend taxpayer dollars on a privately developed subdivision that if they had been properly assessing themselves all along, they

would be in a situation to repair or replace their failing infrastructure after it has worn out. This ordinance will simplify the process to include reporting requirements for the HOA to the City, giving the City an opportunity to help monitor them and to encourage them to assess the owners thus preventing them from needing to come to the City Commission and ask for taxpayer dollars.

Mayor Rees noted that if the City steps in and does repairs or performs maintenance for which the HOA does not have sufficient funds, then the City's only choice would be to place a lien. He asked how placing a lien on the HOA that does not really own the property is a benefit and if going after the individual property owners, how does the city decide who has or has not paid their dues. City Attorney Ardaman explained that the existing code, without making any changes, allows the City to go in and make improvements and then assess the lot owners if it was a subdivision approved under these rules. When the subdivision was approved the process included language that gave the City the right to perform the necessary work. If it was not paid, the City could then lien everyone individually in the subdivision.

Commissioner Sharman stated that sometimes when developers turn over a subdivision to the HOA they usually do not have sufficient funds in an account or at a deficit and how does this ordinance address this issue. Mr. Bollhoefer responded that one of the primary reasons is that this simplifies the reporting process and gives the City the right to require that the HOA provide the extra documentation. The system will be set up to require them to submit documents to the City especially if the subdivision is under the control of the developer.

Commissioner Buchanan stated that including something of a financial requirement being placed on the developer up front before turning it over to the HOA may be more beneficial than fighting it through the costs and increasing the City's legal costs. Mr. Ardaman stated that the developer is required to comply with the covenants and restrictions that are filed at the time it is platted. We don't have a mechanism on the front-end to tell the developers that if they don't comply we will fine them a certain amount of money. Commissioner Buchanan restated that dragging it through the courts does not get it taken care of and we start using tax payer money for something that should have been taken care of at the beginning to make the developer responsible.

City Attorney Ardaman asked if there was a specific issue to be addressed. Commissioner Buchanan stated that Crown Point Springs is a good example of utilizing a lot of city staff to clean up retention areas because of a dispute between Wade Bradford and the HOA. City Manager Bollhoefer stated that the Crown Point Springs situation would not happen now because of how we do the plats, reviews, and documentation. Assistant City Manager Robertson added that we do a final inspection and a one-year inspection. The transfer is now done by deed and is no longer dedicated on the plat.

City Attorney Ardaman stated that what he is hearing is that maintenance is the key issue and it is difficult to look back at the older subdivisions. Going forward with enforcement should not become a problem. The revision will get the City reports and the one-year

maintenance bond that staff will have to actually do inspections so there shouldn't be many problems. City Manager Bollhoefer added that he believes they have reached an agreement regarding Crown Point Springs after 13 years.

Mr. Ardaman noted that this ordinance includes a noticing requirement to ensure that everyone purchasing a lot knows that the City has no responsibility to deal with their improvements. It is not a City or taxpayer responsibility. Commissioner Buchanan agrees this ordinance does more than before but it still does not cover, in his opinion, what needs to be resolved between the developer and the HOA. Mr. Ardaman stated that staff did consider requiring the developer put up a large bond. Commissioner Buchanan agreed that would be an option if it can be done. Mr. Ardaman indicated that while it can be required there is also the marketing standpoint and the fact that the costs could be passed onto the purchaser. Mayor Rees suggested that this option be investigated and reported back to the City Commission for consideration.

Motion by Commissioner Buchanan to approve Ordinance 08-33 with the second reading and public hearing being scheduled for June 12, 2008. Seconded by Commissioner Sharman and carried unanimously 4-0.

4. **REGULAR BUSINESS**

A. **Recommendation to approve the site plan for Beulah Boat and Recreational Vehicle Storage on the southeast corner of Stagg and Beulah Roads with conditions (936 Stagg Road)**

City Planner Williams stated that this is a 2 ¼ acre site which is an expansion of a very successful existing business located in that park. The property owner and developer have met with the subdivision across the street regarding the buffering, landscaping, and screening. They did not object to his project. The Development Review Committee (DRC) has reviewed this project and recommends approval with the conditions as stated in the report.

Mayor Rees asked if the landscaping was going to basically hide the fencing. Mr. Williams responded that the chain link fencing is part of the second phase being considered. This project will have berming and extensive landscaping on the south side.

Motion by Commissioner Buchanan to approve the site plan submitted for Beulah Boat and Recreational Vehicle Storage on the southeast corner of Stagg and Beulah Roads with conditions. Seconded by Commissioner Boulter and carried unanimously 4-0.

B. **Appointments to the West State Road 50 Commercial Corridor Review Board**

City Manager Bollhoefer distributed a letter submitted by Commissioner Jowers, since he is absent tonight, for consideration by the City Commission regarding his two appointment choices to serve on the West State Road 50 Commercial Corridor Review Board.

Mayor Rees summarized the requirements for each person to serve on the West State Road 50 Commercial Corridor Review Board totaling seven (7) members in all.

Commissioner Boulter submitted the owner of Cross Lander of Center Florida Len Argentine for consideration as a business owner in the City on the south side of State Road 50.

Mayor Rees stated that Commissioner Jowers has submitted the owner of Glenn Joiner & Son Auto Parts, Kathy Joiner for consideration as a business owner in the City on State Road 50.

Commissioner Buchanan submitted Rodney Jolley as the Manager of First Commercial Bank on State Road 50.

Mayor Rees asked for suggestions of those business owners on State Road 50 in unincorporated Orange County. Commissioner Sharman submitted the owner of the Car Store, Todd Paquette.

Mayor Rees asked for the names of City of Winter Garden residents for two positions. Commissioner Buchanan submitted Dr. John Cappleman. Commissioner Boulter submitted Mildred Washington. Commissioner Buchanan submitted Chris Lee.

Mayor Rees asked for names of a professional planner or engineer type person for one seat. Commissioner Buchanan submitted John Rinehart. Commissioner Sharman stated that the applicant Bruce Woloshin is also a professional engineer. City Manager Bollhoefer stated that he thought Mr. Woloshin's engineering experience was not in traffic or planning and he thought he was applying for a citizen position. Mr. Woloshin is in Westside Townhomes and serves as their HOA President. Mr. Sharman noted that Mr. Woloshin is a member of the Florida Engineering Society and the American Society of Civil Engineers.

Mayor Rees asked for the names of owners of green space or redeveloped property in the City of Winter Garden located on State Road 50 and noted the person does not have to be a resident of Winter Garden. Mayor Rees submitted George Spigener's name.

Mayor Rees asked if any of the names submitted fall under two categories. Mr. Bollhoefer replied that Bruce Woloshin falls into two categories and added him to the citizens list because he lives in Winter Garden.

Mayor Rees stated that there are ten names submitted to fill seven seats. City Manager Bollhoefer shared information he knew about some of the candidates. Commissioner Sharman asked if any of the candidates already serve on a board. Commissioner Buchanan responded that they can't.

At this time Mayor Rees asked for a name to be submitted and then a vote.

Len Argentine	Business owner on SR50 in the City	Unanimous 4-0
Kathy Joiner	Business owner on SR50 in the City	Unanimous 4-0
Todd Paquette	Property owner on SR50 in the County	Unanimous 4-0
George Spigener	Property owner of soon to be redevelopment property on SR50	Unanimous 4-0
Dr. John Cappleman	City resident not owning a business on SR50	Unanimous 4-0
Mildred Washington	City resident not owning a business on SR50	Unanimous 4-0
John Rinehart	Professional urban planner	Unanimous 4-0

5. **MATTERS FROM CITIZENS** – There were none.

6. **MATTERS FROM CITY ATTORNEY**

Hold Harmless and Indemnity agreement with MPG Avamar Ltd and SunTrust Bank

City Attorney Ardaman stated that at the last meeting the City Commission approved a contamination hold harmless and indemnity agreement that apparently was not the final version because it did not contain the second property owner. This item was for the Avamar property whose owners are MPG Avamar Ltd. and SunTrust Bank who have since executed the proper version. He requested approval executing the revised agreement which adds SunTrust and some minor text revisions. He explained that the revised agreement does the same thing in protecting the City from any possible environmental contamination caused by the property owners for the property they are giving to the City.

Motion by Commissioner Buchanan to approve executing the corrected Hold Harmless and Indemnity agreement with MPG Avamar Ltd and SunTrust Bank. Seconded by Commissioner Sharman and carried unanimously 4-0.

7. **MATTERS FROM CITY MANAGER**

Architectural Review Board Ordinance

City Manager Bollhoefer stated that staff is still working on this item and will be bringing it to the City Commission hopefully by the next meeting.

Workshop for Downtown Noise Ordinance

A workshop is being put together for the first meeting in June with regard to downtown ordinances as they relate to noise and some other issues.

8. **MATTERS FROM MAYOR AND COMMISSIONERS**

Commissioner Buchanan stated that he believes the West Orange Chamber of Commerce Business and Breakfast tomorrow May 9, 2008 at 7:30 a.m. is important to attend and City representatives should attend.

Commissioner Buchanan stated that at the Chamber of Commerce meeting this morning, the Political Alliance asked if the City was going to take a stand on the hometown democracy issue. Commissioner Sharman stated that the Florida League of Cities and the Tri-County League of Cities are taking a position on this issue and asked what is the chamber's position on this issue. Commissioner Buchanan responded that the chamber is in opposition and they would like to have the support of the cities to take to the state chamber. Commissioner Sharman shared that is the same position the Tri-County League of Cities he believes they are supporting a second bill that is a little different. He stated that he would get additional information and bring it to staff to submit to the City Commission for consideration. City Manager Bollhoefer stated that he believes the Florida League of Cities may already have a model resolution for opposing this issue. Commissioner Sharman suggested making it congruent with what the Florida League of Cities is doing.

Commissioner Sharman stated that a citizen called him and asked about cemetery maintenance because they noticed the grass is getting a little patchy in some areas. City Manager Bollhoefer stated he would check on this.

Commissioner Sharman stated that he received an e-mail from a citizen in Ocoee with reference to bus routes to our Winter Garden Village at Fowlers Grove as opposed to going to the Ocoee Mall. Commissioner Sharman stated that he is concerned and is in a favor of a bus route for the citizens of Winter Garden who want go to the new mall to work. He wanted information regarding the new route to get out to our citizens. He asked the City Manager if he was familiar with the routes.

City Manager Bollhoefer gave a brief description of what he believes is the new mall bus route. He stated that there are no stops when it goes back to Ocoee. That route is paid for by Lynx and The Sembler Company who selected the route and it really does not serve Winter Garden in any respect with the exception of possibly the West Orange High School.

There was discussion on bus routes and the study that the City of Winter Garden is doing which should suggest the best routes for serving Winter Garden. City Manager Bollhoefer stated that with the mall shuttle route staff is looking to include how it would link people and fill that void. When the City has its route, staff will meet with Lynx and talk about alternatives. He noted that other Lynx routes in Winter Garden are extremely underutilized because there is so much time in between stops no one wants to use their service.

Commissioner Boulter stated that he has been speaking with Lynx for some time now and he actually took a representative around to his community to give them firsthand information on what the community's thoughts were about the inadequacies of the bus routes through the City of Winter Garden. He addressed how the elderly start in East Winter Garden to go to

K-Mart and then have to go all the way to Ocoee, wait, and come back turning a 5 minute ride into a 45 minute ride.

City Manager Bollhoefer shared that the City of Winter Garden's issues are the same issue Lynx is facing with all smaller cities. They focus primarily on the Orlando area. He spoke of conversations with Lynx who has indicated they would like to expand the service but do not have the funds. They have actually lost funding thereby making it more difficult for them to meet the demand for service.

Commissioner Sharman asked the City Commission what their thoughts were for having a downtown hub for buses. City Manager Bollhoefer responded that it depends on the frequency and the actual route. He believes that the route just for the Sembler mall is approximately \$300,000 per year, so the cost benefit would really have to be assessed. He stated that is why the City, from our own prospective, is considering our own study. Utilizing a shuttle bus could affordably accomplish getting people from local downtown and out to the shopping centers. Lynx will provide full services if the full cost is paid, which makes it very expensive.

Mayor Rees announced the Relay for Life event at Whispering Oak Elementary is tomorrow at 6:00 p.m. and invited everyone to attend.

Mayor Rees stated that the Pizza Company is now opening on Sunday afternoons and are raising money for different youth activities. They have asked about being able to have someone playing music outside possibly around the fountain for a couple hours on Sunday afternoon and whether or not the City would have any issues with this idea. City Manager Bollhoefer stated that he did not think there would be any issues but asked that they direct their questions to our Recreation Director.

Mayor Rees shared that everyone has made their selection on future meeting attire and we will be switching to what the majority selected. Commissioners may contact City Clerk Golden with what has been decided.

The meeting adjourned at 7:34 p.m.

APPROVED:

/S/
MAYOR JOHN REES

ATTEST:

/S/
City Clerk Kathy Golden, CMC